

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EMANUEL RIOS,	:	CIVIL ACTION
	:	
Petitioner,	:	
	:	
v.	:	NO. 05-6640
	:	
	:	
SUPERINTENDENT TENNIS, et al.,	:	
Respondents.	:	

MEMORANDUM AND ORDER

_____ In his objection to the Report and Recommendation of Magistrate Judge Elizabeth T. Hey, Petitioner recycles the arguments he made prior to Judge Hey's Report and Recommendation being issued.

Having carefully reviewed the facts and procedural history, it is clear that Judge Hey's determination that the petition is time barred is correct.

Accordingly, the following order is entered:

AND NOW, this 28th day of July, 2008, after consideration of the Report and Recommendation of Magistrate Judge Elizabeth T. Hey, and the objections thereto, it is hereby **ORDERED** that the Report and Recommendation is **APPROVED and ADOPTED**, and the petition filed pursuant to 28 U.S.C. § 2254 is **DISMISSED**.

Since the Petitioner has failed to make a substantial showing of the denial of any constitutional right, there is no basis for the issuance of a certificate of appealability.

BY THE COURT:

s/ Ronald L. Buckwalter
RONALD L. BUCKWALTER, S.J.